

**RESPONSE TO RESTRICTION
REQUIREMENT
U.S.S.N. 09/988,777
02880/351**

REMARKS

Claims 1-6, 10-13, 16-21, 23-27, 29, 30, and 32-35 have been amended to ensure proper antecedent basis is provided for all claim terms. Claim 36 and 37 have been added.

In response to the Restriction Requirement of October 3, 2003, for which a response is due on or before November 3, 2003, Applicants provisionally elect, with traverse, species 1 on which claims 1-15 and 22-33 are readable. Applicants initially point out that claim 1 is a generic claim pursuant to MPEP 806.04(d) and claims 2-22 depend therefrom and claim 23 is a generic claim and claims 23-37 depend therefrom. Applicants further submit that claims 1-15 and 22-33, which read on species 1 and claims 1, 16-21, and 34-37, which read on species 2 do not recite mutually exclusive characteristics since two bioabsorbable spacers as recited in claims 16-21 and 34-37 necessarily includes at least one bioabsorbable spacer as recited in claims 1-15 and 22-33. Accordingly, Applicants respectfully request withdrawal of this election of species requirement and request examination of all claims of both species.

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If there are any issues outstanding after consideration of this election, the Examiner is invited to contact the undersigned to expedite prosecution of this case.

The Patent Office is authorized to charge any fees that may be necessary for consideration of this paper to Kenyon & Kenyon Deposit Account No. 11-0600.

Respectfully submitted,
KENYON & KENYON

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